SUPREME COURT OF WISCONSIN

Case No.:	98-0152

Complete Title
of Case:

> In re the Commitment of Wilbert L. Thomas:
>
> State of Wisconsin,
>   Petitioner-Respondent-Petitioner,
>   v.
> Wilbert L. Thomas,
>   Respondent-Appellant.

ON REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 226 Wis. 2d 159, 594 N.W.2d 418
                    (Ct. App. 1999-Unpublished)

Opinion Filed:	December 8, 1999
Submitted on Briefs:	
Oral Argument:	November 11, 1999

Source of APPEAL

COURT:	Circuit
COUNTY:	Racine
JUDGE:	Emmanuel Vuvunas

JUSTICES:

Concurred:	
Dissented:	
Not Participating:	PROSSER, J., did not participate.

ATTORNEYS: For the petitioner-respondent-petitioner the
cause was argued by *Brian E. Pawlak*, assistant district attorney,
with whom on the briefs was *Robert S. Flancher*, district attorney
and *Michael E. Nieskes*, deputy district attorney.

For the respondent-appellant there was a brief by
assistant state public defenders *Mark Lukoff*, *Robert W. Peterson*
and *Jack E. Schairer* and oral argument by *Jack E. Schairer*,
assistant state public defender.

No.   98-0152

STATE OF WISCONSIN   :   IN SUPREME COURT

In re the Commitment of Wilbert L. Thomas:

State of Wisconsin,

     Petitioner-Respondent-Petitioner,

  v.

Wilbert L. Thomas,

     Respondent-Appellant.

FILED

DEC 8, 1999

Marilyn L. Graves
Clerk of Supreme Court
Madison, WI

REVIEW of a decision of the Court of Appeals. *Affirmed.*

¶1   PER CURIAM.   The court is equally divided on the question of whether the unpublished decision of the court of appeals, State v. Thomas, no. 98-0152 (Dec. 9, 1998), should be affirmed or reversed.   Chief Justice SHIRLEY S. ABRAHAMSON, Justice WILLIAM A. BABLITCH and Justice ANN WALSH BRADLEY would affirm; Justice JON P. WILCOX, Justice N. PATRICK CROOKS and Justice DIANE S. SYKES would reverse.   Justice DAVID T. PROSSER did not participate.

¶2   Accordingly, the decision of the court of appeals is affirmed.